

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

(Attorney Docket № 14223US02)

In the Application of:	)	
Martin Lund	)	<i>Electronically Filed on 02-JUL-2008</i>
Serial No. 10/648,004	)	
Filed: August 26, 2003	)	
For: SYSTEM AND METHOD FOR	)	
COMMUNICATING BETWEEN	)	
SERVERS USING A MULTI-SERVER	)	
PLATFORM	)	
Examiner: Chirag R. Patel	)	
Group Art Unit: 2141	)	
Confirmation No. 3309	)	

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

The Applicant requests review of the final rejection in the above-identified application, stated in the final Office Action mailed on April 2, 2008 (hereinafter, the Final Office Action) with a period of reply through July 2, 2008. The Applicant also requests review of the arguments stated on page 2 of the Advisory Office Action mailed on June 11, 2008 (hereinafter, the Advisory Office Action). No amendments are being filed with this request.

This request is being filed with a Notice of Appeal. The review is being requested for the reasons stated on the attached sheets.

## REMARKS

The present application includes pending claims 1-30, all of which have been rejected. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1-30 stand rejected under 35 U.S.C. § 102(e) as being anticipated by US Patent № 6,574,240, issued to Tzeng (hereinafter, Tzeng). Without conceding that Tzeng qualifies as prior art under 35 U.S.C. § 102(e), the Applicant respectfully traverses these rejections at least based on the following remarks.

### REJECTION UNDER 35 U.S.C. § 102

#### I. Tzeng Does Not Anticipate Claims 1-30

The Applicant now turns to the rejection of claims 1-30 under 35 U.S.C. 102(e) as being anticipated by Tzeng.

##### A. Examiner's Response to Arguments Section

The Applicant points out that in the Response to Arguments section (pages 2-3) of the Final Office Action, the Examiner has only quoted substantial portions of col. 3, lines 15-42 of Tzeng, without addressing the Applicant's specific arguments stated in the December 5, 2007 amendment. The Examiner is, in effect, repeating his arguments stated in the October 30, 2007 Advisory Office Action, which were rebutted in detail by the December 5, 2007 amendment.

For example, the Examiner states the following in pages 2-3 of the Final Office Action: "Examiner asserts that each of the network stations referred to as blade servers when reading the claims in light of the spec are coupled to the switch fabric 25 as disclosed in Tzeng." The Examiner is referred again to pages 14-17 of the December 5, 2007 amendment, where it is explained in detail that Tzeng does not disclose at least two blade servers coupled to a common switch via a common bus. If the Examiner equates Applicant's "common switch" to Tzeng's "switch fabric 25", the Examiner's argument is deficient since no two of Tzeng's network stations are coupled to the switch fabric via a common bus. For convenience of the Examiner, the Applicant is repeating the argument from the December 5, 2007 amendment herein below.

##### B. Rejection of Independent Claim 1 under 35 U.S.C. § 102 (e)

The following annotated FIG. 1 of Tzeng will be used in Applicant's argument.

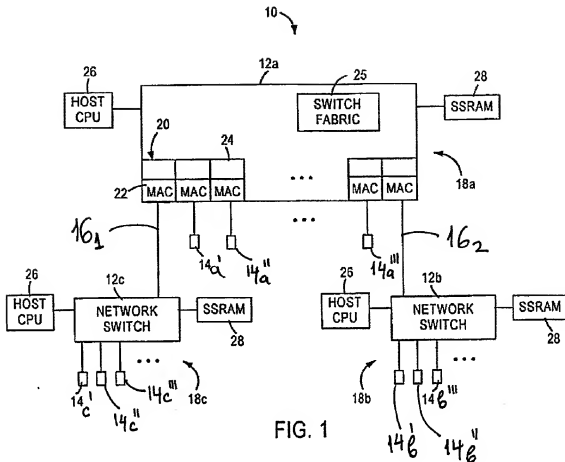


FIG. 1

With regard to the rejection of independent claim 1 under 35 U.S.C. § 102(e), the Applicant submits that Tzeng does not disclose or suggest at least the limitation of "receiving at least one packet from a first blade server of a plurality of blade servers, **at least two of which are coupled to a common switch via a common bus,**" as recited by the Applicant in independent claim 1 (emphasis added).

The Final Office Action refers for support to Tzeng and states the following:

As per claims 1, 11, and 21 Tzeng discloses a method for communicating information in a server, the method comprising: receiving at least one packet from a first blade server of a plurality of blade servers, at least a portion of which is coupled to a common bus; (Col 4 lines 22-30); determining at least one identifier associated with at least a second blade server based on at least a portion of said received at least one packet; and (Col 5 lines 46-59); routing at least a portion of said at least one received packet to at least said second blade server. (Col 6 lines 4-18).

See the Final Office Action at pages 3-4. The Final Office Action relies on col. 4, lines 22-30 of Tzeng, which states the following:

FIG. 3 is a flow diagram illustrating an example of the type of layer 3 processing that might be performed for an incoming data packet. The flow diagram of FIG. 3, conventionally implemented in software, would involve checking whether the incoming data packet was a hypertext transport protocol (HTTP) packet in step 50, an SNMP packet in step 52, or a high-priority packet in step 54. The appropriate tag would then be assigned identifying the packet in steps 56, 57, 58, or 60.

With regard to the above citation of Tzeng (col. 4, lines 22-30), the Applicant points out that Figure 3 of Tzeng illustrates exemplary layer 3 processing for an incoming data packet. In addition, this citation of Tzeng does not disclose receiving of a data packet from a blade server. In fact, Tzeng also does not disclose a plurality of blade servers, where at least two of the blade servers are coupled to a common switch via a common bus.

In the Final Office Action and in the October 30, 2007 Advisory Office Action, the Examiner has interpreted Tzeng's network stations 14 (14a', 14a'', 14a''', 14b', 14b'', 14b''', 14c', 14c'', and 14c''') to broadly cover Applicant's "blade server" claim limitation. In addition, the Examiner has interpreted Tzeng's Ethernet links 16 (16<sub>1</sub> and 16<sub>2</sub>) to broadly cover Applicant's "common bus" claim limitation. See the Advisory Office Action at page 2. Even assuming for the sake of argument that this interpretation is correct, the Examiner's argument is still deficient.

For example, referring to above annotated FIG. 1 of Tzeng, the Applicant points out that each of the Ethernet links 16<sub>1</sub> and 16<sub>2</sub> (equated by the Examiner to Applicant's "common bus") couple the multiport switches 12a-12c, and the Ethernet links 16<sub>1</sub> and 16<sub>2</sub> do not couple any of the network stations 14a', 14a'', 14a''', 14b', 14b'', 14b''', 14c', 14c'', and 14c''' (equated by the Examiner to Applicant's "blade server"). Furthermore, the network stations 14a', 14a'', 14a''', 14b', 14b'', 14b''', 14c', 14c'', and 14c''' (equated by the Examiner to Applicant's "blade server") are not coupled to a common switch via an Ethernet links 16<sub>1</sub> and 16<sub>2</sub> (equated by the Examiner to Applicant's "common bus").

Assuming for the sake of argument that Applicant's "common switch" is equated to any one of Tzeng's network switches (e.g., 12a), then Tzeng is sufficiently distinguished since none of the network stations 14a', 14a'', and 14a''' are coupled to the switch 12a via any of the Ethernet links 16<sub>1</sub> and 16<sub>2</sub>.

**Assuming for the sake of argument that Applicant's "common switch" is equated to any one of Tzeng's switch fabric modules (e.g., switch fabric 25), then Tzeng is again sufficiently distinguished since none of the network stations 14a', 14a'', and 14a''' are coupled to the switch fabric 25 via any of the Ethernet links 16<sub>1</sub> and 16<sub>2</sub>.**

Therefore, the Applicant maintains that Tzeng does not disclose or suggest at least the limitation of "receiving at least one packet from a first blade server of a plurality of blade servers, at least two of which are coupled to a common switch via a common bus," as recited by the Applicant in independent claim 1. Accordingly, independent claim 1 is not anticipated by Tzeng and is allowable. Independent claims 11 and 21 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 11 and 21 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

The Applicant also maintains the arguments stated in pages 17-18 of the May 30, 2008 response, regarding the allowability of dependent claims 2-10, 12-20, and 21-30.

In general, the Final Office Action makes various statements regarding claims 1-30 and the cited reference that are now moot in light of the above. Thus, the Applicant will not address such statements at the present time. However, the Applicant expressly reserves the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

## **II. Conclusion**

The Applicant respectfully submits that claims 1-30 of the present application should be in condition for allowance at least for the reasons discussed above and request that the outstanding rejections be reconsidered and withdrawn. The Commissioner is authorized to charge any necessary fees or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

Date: 02-JUL-2008

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